

LEGISLATIVE BILL 160

Approved by the Governor May 22, 2009

Introduced by Gay, 14; Cornett, 45.

FOR AN ACT relating to natural resources districts; to amend sections 2-3234 and 2-3290.01, Revised Statutes Cumulative Supplement, 2008; to provide for issuance of flood protection and water quality enhancement bonds as prescribed; to provide powers and duties; to provide for public access as prescribed; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. In addition to other powers authorized by law, the board of directors of a natural resources district encompassing a city of the metropolitan class, upon an affirmative vote of two-thirds of the members of the board of directors, may issue negotiable bonds and refunding bonds of the district, entitled flood protection and water quality enhancement bonds, with terms determined appropriate by the board of directors, payable from an annual special flood protection and water quality enhancement bond levy upon the taxable value of all taxable property in the district. Such special bond levy is includable in the computation of other limitations upon the district's tax levy and shall not exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district without approval by a majority of registered voters of the district at an election in accordance with the Election Act called by the board of directors and held in conjunction with a statewide primary or general election.

Sec. 2. (1) The proceeds of bonds issued pursuant to section 1 of this act shall be used to pay costs of design, rights-of-way acquisition, and construction of multipurpose projects and practices for storm water management within the natural resources district issuing such bonds, including flood control and water quality. For purposes of this section, flood control and water quality projects and practices include, but are not limited to, low-impact development best management measures, flood plain buyout, dams, reservoir basins, and levees. The proceeds of bonds issued pursuant to section 1 of this act shall not be used to fund combined sewer separation projects in a city of the metropolitan class. No project for which bonds are issued under section 1 of this act shall include a reservoir or water quality basin having a permanent pool greater than four hundred surface acres. Any project having a permanent pool greater than twenty surface acres shall provide for public access.

(2) A district shall only convey real property that is acquired for a project described in subsection (1) of this section by eminent domain proceedings pursuant to sections 76-704 to 76-724 to a political subdivision or an agency of state or federal government.

(3) (a) Prior to the issuing of bonds pursuant to section 1 of this act or expending funds of a natural resources district encompassing a city of the metropolitan class to pay costs of a reservoir or water quality basin project or projects greater than twenty surface acres, a county board of the affected county may pass a resolution stating that it does not approve of the construction of such reservoir or water quality basin project or projects within its exclusive zoning jurisdiction. The county board shall hold a public hearing and shall vote on the resolution within ninety days after notice from the board of directors of the natural resources district of its intent to issue bonds.

(b) No proceeds from bonds issued pursuant to section 1 of this act or funds of a natural resources district encompassing a city of the metropolitan class may be used to pay costs of a reservoir or water quality basin project or projects greater than twenty surface acres if the county board of the affected county passes such a resolution.

(c) Sections 1 to 5 of this act do not (i) limit the authority of a natural resources district with regard to reservoirs, water quality basin projects, or other projects of less than twenty surface acres or (ii) prohibit use of funds of a natural resources district for preliminary studies or reports necessary, in the discretion of the board of directors of the natural resources district, to determine whether a reservoir or water quality basin project should be presented to a county board pursuant to this section.

(4) Proceeds of bonds issued pursuant to section 1 of this act shall not be used to fund any project in any city or county (a) located within a watershed in which is located a city of the metropolitan class and (b) which

is party to an agreement under the Interlocal Cooperation Act, unless such city or county has adopted a storm water management plan approved by the board of directors of the natural resources district encompassing a city of the metropolitan class.

(5) A natural resources district encompassing a city of the metropolitan class shall only issue bonds for projects in cities and counties that have adopted zoning regulations or ordinances that comply with state and federal flood plain management rules and regulations.

Sec. 3. For the purpose of making partial payments, the board of directors of a natural resources district issuing bonds pursuant to section 1 of this act may issue warrants having terms as determined appropriate by the board, payable from the proceeds of such bonds.

Sec. 4. The board of directors of a natural resources district issuing bonds pursuant to section 1 of this act may agree to pay fees to fiscal agents in connection with the placement of warrants or bonds of the district. Such warrants and bonds shall be subject to the same conditions as provided by section 2-3254.07 for improvement project area bonds and such other conditions as the board of directors determines appropriate.

Sec. 5. The authority to issue bonds for qualified projects granted in section 1 of this act terminates on December 31, 2019, except that (1) any bonds already issued and outstanding for qualified projects as of such date are permitted to remain outstanding and the district shall retain all powers of taxation provided for in section 1 of this act to provide for the payment of principal and interest on such bonds and (2) refunding bonds may continue to be issued and outstanding as of December 31, 2019, including extension of principal maturities if determined appropriate.

Sec. 6. Section 2-3234, Revised Statutes Cumulative Supplement, 2008, is amended to read:

2-3234 Each Except as provided in section 2 of this act, each district shall have the power and authority to exercise the power of eminent domain when necessary to carry out its authorized purposes within the limits of the district or outside its boundaries. Exercise of eminent domain shall be governed by the provisions of sections 76-704 to 76-724, except that whenever any district seeks to acquire the right to interfere with the use of any water being used for power purposes in accordance with sections 46-204, 70-668, 70-669, and 70-672 and is unable to agree with the user of such water upon the compensation to be paid for such interference, the procedure to condemn property shall be followed in the manner set forth in sections 76-704 to 76-724 and no other property shall be included in such condemnation. No district shall contract for delivery of water to persons within the corporate limits of any village, city, or metropolitan utilities district, nor in competition therewith outside such corporate limits, except by consent of and written agreement with the governing body of such political subdivision. A village, city, or metropolitan utilities district may negotiate and, if necessary, exercise the power of eminent domain for the acquisition of water supply facilities of the district which are within its boundaries.

Sec. 7. Section 2-3290.01, Revised Statutes Cumulative Supplement, 2008, is amended to read:

2-3290.01 (1) A district shall permit public use of those portions of a water project located on lands owned by the district and on land over which the district has a lease or an easement permitting use thereof for public recreational purposes. All recreational users of such portions of a water project shall abide by the applicable rules and regulations adopted and promulgated by the board.

(2) The district shall provide public access for recreational use at designated access points at any water project. Recreational users, whether public or private, shall abide by all applicable rules and regulations for use of the water project adopted and promulgated by the district or the political subdivision in which the water project is located. Public recreational users may only access the water project through such designated access points. Nothing in this subsection shall require public access when the portion of the project cost paid by the natural resources district with public funds does not exceed twenty percent of the total cost of the project.

(3) For purposes of this section, water project means a project with cooperators or others, as authorized in section 2-3235, that results in construction of a reservoir or other body of water having a permanent pool suitable for recreational purposes greater than one hundred fifty surface acres, the construction of which commenced after July 14, 2006. Water project shall not mean soil conservation projects, wetlands projects, projects described in section 2 of this act, or other district projects with cooperators or others that do not have a recreational purpose.

(4) For projects funded under section 2 of this act that result

in a reservoir or other body of water having a permanent pool suitable for recreational purposes greater than twenty surface acres, the district shall provide public access for recreational use at designated access points and shall include access to the land area a minimum distance of one hundred feet from the permanent pool. Recreational users, whether public or private, shall abide by all applicable rules, regulations, ordinances, or resolutions for use of the project adopted by the district or the political subdivision in which the project is located. Public recreational users may only access the project through such designated access points.

Sec. 8. The Revisor of Statutes shall assign sections 1 to 5 of this act within Chapter 2, article 32.

Sec. 9. Original sections 2-3234 and 2-3290.01, Revised Statutes Cumulative Supplement, 2008, are repealed.